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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,342	08/21/2003	James A. Sebastian		6734
7590	04/01/2008		EXAMINER	
Thomas A. O'Rourke Bodner & O'Rourke, LLP 425 Broadhollow Road Melville, NY 11747			AGERS, JULIE A	
			ART UNIT	PAPER NUMBER
			4177	
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			04/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/645,342	SEBASTIAN ET AL.	
	Examiner	Art Unit	
	JULIUS AGERS	4177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 9/24/2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-9 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 9/24/2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

2. It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because of an improper length of 243 words, which exceeds 150 words. Additionally, applicant uses phraseology "said". Correction is required. See MPEP § 608.01(b).

Claim Objections

5. Claim 6 is objected to because of the following informalities: claim recites "on a at least portion" which appears to be a miss wording of "on at least a portion". Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

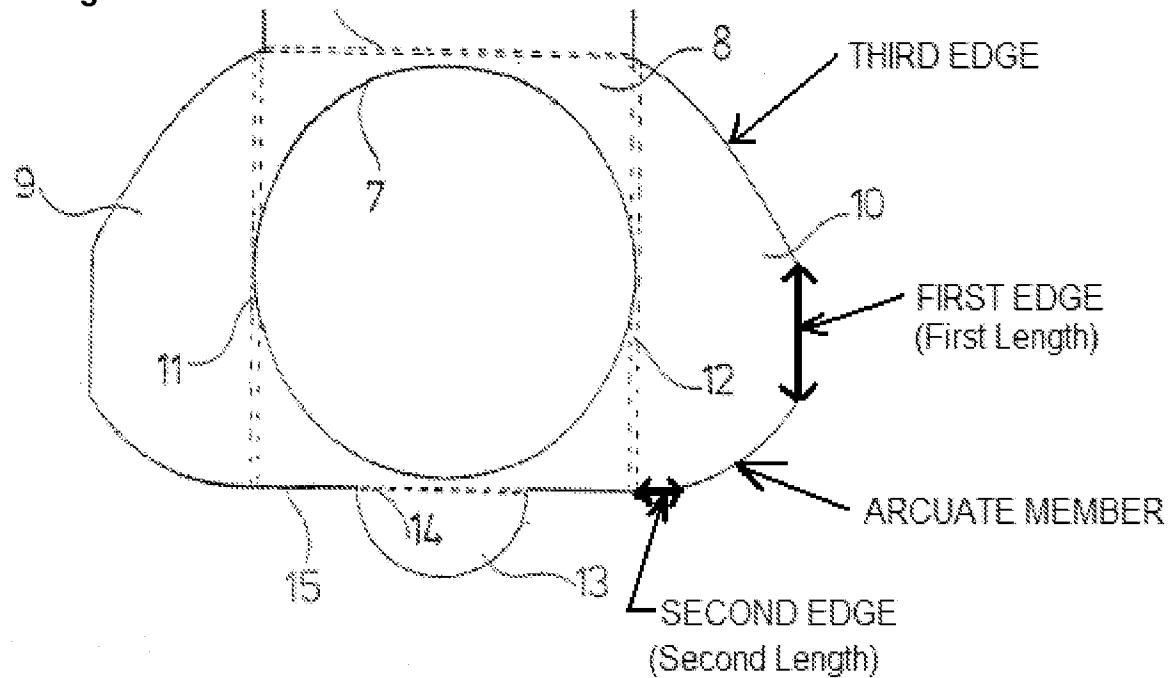
A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3, 5, 7-9 are rejected under 35 U.S.C. 102(e) as being unpatentable over Cinquina (US 6,629,600).

8. Regarding claim 1, Cinquina discloses a blank ("punched sheet material", col. 2, line 21) for manufacturing a CD container having a first surface ("central panel" 5, fig. 1) and a second surface ("second panel" 8, fig. 1) being separated by a first side wall ("folding line" 6, fig. 1), being joined to the first surface and the second surface at first and second score lines respectively (see two dashed lines at folding line 6, fig. 1) said second surface (8) having a second sidewall and a third sidewall ("folding lines" 11 & 12, fig. 1) on opposite sides of said second surface ("second panel" 8, fig. 1), each sidewall having extending therefrom a wing ("side fin" 9 & 10, fig. 1), separated from said sidewalls (11 & 12, fig. 1) by a score line or "folding line" (two dashed lines), said wings having a first edge (see A. Reference Image of Wing Edges, below) with a first

length and a second edge with a second length and wherein said first length is greater than said second length, said first edge having extending therefrom a third edge and said second edge having extending therefrom an arcuate member (see fig. A below), wherein one end of said arcuate member connects with one end of said first edge, said first surface ("central panel" 5, fig. 1) having a retaining means ("fin" and "bearing face", 2 and 3 respectively, fig. 1) on the side of the first surface opposite the first side wall ("folding line" 6, fig. 1), said retaining means being separated from said first surface (5) by a score line ("folding line", 4, fig. 1), with said retaining means having a body portion ("bearing face" 3, fig. 1) that has first and second side walls as well as a first finger (see pointed tip near 2 in figure 1) and a second finger extending from said sidewalls, said fingers being separated from each other by an arcuate edge ("arched recess" 25, fig. 1).

Figure A.



9. Regarding claim 2 Cinquina discloses in figure 1 an arcuate edge ("arched recess", 25, fig. 2) that is a semicircle.
10. Regarding claim 3 Cinquina discloses a fin (2, fig. 1) having the shape of two "fingers", at each side having and outer and inner edge being joined together at a "tip" (see pointed tips at top portion 2 in fig 1).
11. Regarding claim 5, Cinquina teaches the making of a CD case "box body" from a blank "punched sheet" (col. 3, lines 18-25 and figs. 1 & 3), being completed by a couple of side wings ("fins", 9 and 10) being folded inwardly, the first surface ("central panel" 5, fig. 1) having been folded over towards the second surface ("second panel" 8, fig. 1) and the fingers (see pointed tips on "fin" 2, fig. 1) having been folded under the wings so that the are between the wings and the second surface.
12. Regarding claim 7, Cinquina describes a container wherein a CD (refer to col. 6, lines 37-40 & lines 51-52 of claims) is retained thereon by the holding-back fin ("retaining means" 2, fig. 1) which has an arcuate edge ("arched recess", 25, fig. 1).
13. Regarding claim 8, Cinquina claims a container wherein a CD (col. 6, lines 37-40 of claims) is retained thereon by the holding-back fin (2) which has the relative shape of two "fingers" (refer to figure 1).

14. Regarding claim 9, Cinquina discloses a device wherein a compact disc may be released from the container (col. 5, lines 22-32) by squeezing opposite sidewalls toward each other causing the first surface (“bottom wall” or “central panel” 5, fig. 5) and the second surface (“front wall” or “second panel” 8) to separate from each other.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cinquina. Cinquina discloses the claimed invention except for tips in the form of semicircles. However, it would have been an obvious matter of design choice to change the shape of the tips of the fin (2) from a pointed tip to a semicircle since such a modification would have involved a mere change in the form or shape of a component. A change in form is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

16. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cinquina in view of Antik (US 5,293,994). Cinquina discloses the claimed invention except for an

adhesive being placed on the wing. However, Antik discloses a similar device wherein an adhesive is used (see detailed description of preferred embodiments, Col. 4, lines 30-32) wherein Antik teaches “in closing the package 10, an adhesive is provided to fasten the second end (12) of the sheet of material to the body of the package”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Cinquina’s device to include an adhesive, as suggested and taught by Antik, for the purpose of providing a fastening mechanism for sealing the case.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIUS AGERS whose telephone number is (571) 270-5423. The examiner can normally be reached on Monday - Friday, EST 8:00 am - 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quang Thanh can be reached on 571-272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh/
Supervisory Patent Examiner,
Art Unit 4177

/J. A./
Patent Examiner
Art Unit #4177